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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,485	02/04/2002	Gregory A. Piccionelli	39003.801US01	7188
7590	10/20/2005		EXAMINER DUONG, OANH L	
Brull & Piccionelli Suite 2350 1925 Century Park East Los Angeles, CA 90067			ART UNIT 2155	PAPER NUMBER

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/067,485

Applicant(s)

PICCIONELLI, GREGORY A.

Examiner

Oanh Duong

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/12/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6 and 8-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6 and 8-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 4 and 7 have been canceled.

Claims 1-3, 5-6, and 8-22 are presented for examination.

Claim Objections

2. Claim 1 is objected to because of the following informalities:

Claim 1 recites the limitation "the selected service" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12, and 14-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Tognazzini.

Regarding claim 12, Tognazzini teaches a method for operating a provider computer to provide performance data to a user computer on a network, the method comprising:

receiving a request from the user computer, the request corresponding to at least one performer (col. 5 lines 37-44);

generating electronic data corresponding to a live performance performed by the at least one performer in response to the request (col. 6 lines 36-40); and

transmitting the electronic data to the user computer over the network (col. 6 lines 3-5).

Regarding claim 14, Tognazzini teaches a method as claimed in claim 12, wherein generating electronic data corresponding to a live performance comprises recording a live performance with at least one of an audio or video recording device (col. 9 lines 39-47).

Regarding claim 15, Tognazzini teaches a method as claimed in claim 12, wherein receiving a request comprises receiving data from the user computer, the data corresponding to least one performer and least one user-selectable attribute of a performance and wherein generating electronic data corresponding to a live performance comprises recording a live performance performed by the least one performer and including the at least one user-selectable performance attribute (col. 1 lines 50-59).

Regarding claim 16, Tognazzini teaches a method as claimed in claim 12, wherein generating electronic data corresponding to a live performance comprises:

notifying the at least one performer of the receipt of the request from the user
(col. 11 lines 1-2);

providing a performance recording location at which the at least one performer
may perform the requested performance (col. 8 lines 29-36);

and recording a live performance by the at least one performer at the
performance recording location with an electronic recording system to generate the
electronic data (col. 11 line 65-col. 12 line 2).

Regarding claim 17, Tognazzini teaches a method as claimed in claim 16, further
comprising receiving with the provide computer location information corresponding to
the geographic location of the user computer and providing the user computer with a
communication over the network, the communication comprising an incentive to a user
of the user computer to visit a specified business establishment within the vicinity of the
geographic location of the user computer, wherein the specified business establishment
includes the performance recording location (col. 8 lines 29-50).

Regarding claims 18-21 does not teach or define any new limitation above claim
17 and therefore is rejected for similar reason.

Regarding claim 22, Tognazzini teaches a method as claimed in claim 12,
wherein receiving a request from a user computer comprises providing a website in art
on-line communication session over the network, and wherein transmitting electronic

data comprises transmitting an on-line performance performed by the performer in real time during the on-line communication session, in response to request (col. 6 lines 50-59).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5-6, and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewin et al. (Hereafter, Lewin) (US 2001/0005831 A1) in view of Tognazzini (US 5,708,478).

Regarding claim 1, Lewin teaches a method for communicating with a performer (i.e., providers 10 or businesses) on a network (i.e., a communication network 40) having a provider computer (a server environment 30) and a user computer (i.e., consumer 20), the provider computer and the user computer communicating there between [see Fig. 1], and wherein the performer provides at least one service (i.e., the provider is required to select 660 which services or products he/she wishes to provide through the system)[see page 11 paragraph 159], comprising:

accessing a user interface on the provider computer via the user computer, wherein the user interface includes data directed to at least one performer (i.e., the

consumer (or user) is presented with a contact information of potential provider(s) that provide a resource limited produce or service. The consumer may select any of the PoS and generate a reservation order using the user interface provided by the system) [see page 2 paragraph 0021 and page 11 paragraph 0171];

selecting a performer from the user interface to provide at least one said service (i.e., select at least one from among said providers) [see page 3 paragraph 36];

transmitting a request to the performer to provide selected service (i.e., the consumer may select any of the matching PoS and generate a reservation order...triggers at least one notification to the corresponding provider/performer) [see page 2 paragraph 21].

Lewin does not explicitly teach transmitting a request to the performer to provided the selected server in real time as a response to the request; and receiving the selected service over the network with the user computer in response to the request.

Tognazzini teaches transmitting a request to the performer to provided the selected server in real time as a response to the request (col. 6 lines 50-59); and receiving the selected service over the network with the user computer in response to the request (col. 6 lines 37-44).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate transmitting a request to the performer to provided the selected server in real time as a response to the request; and receiving the selected service over the network with the user computer in response to the request of Tognazzini in the process of performing service in Lewin. One would be motivated to do so to provide the

user computer with the ability to automatically contact the performer (or advertiser) to obtain the offered service (Tognazzini, col. 2 lines 30-35).

Regarding claim 2, Lewin teaches selecting a performer and requesting the performer to provide the predefined service occurs simultaneously (i.e., in response to selecting at least one from among said providers, the server environment is configured to generate a reservation order therefor) [see page 3 paragraph 51].

Regarding claim 3, Lewin teaches selecting a service from a menu of services offered by the performer (i.e., the system provides him with a list of possible services...from which he must select a service) [see page 11 paragraph 0169]

Regarding claim 5, Lewin teaches transmitting, by the user computer, predefined user criteria (i.e., the consumer first selects 730 the SIC and geographic location in which he would like to seek a business) [see page 11 paragraph 0167], and transmitting an interface to the user computer from the provider computer dependent upon the predefined user criteria (i.e., as a result of selection 730 the system provides him with a list of possible services) [see page 11 paragraph 0169].

Regarding claim 6, Lewin teaches the predefined user criteria consists of any of from the following group: geographic areas of interest, performer identity, attributes of performers, type of performance, geographic location of performers, cost of

performance, type of establishment, and geographic location of establishments (i.e., geographic location in which he would like to seek a business/provider/performer) [see [page 11 paragraph 0167].

Regarding claim 8, Lewin-Tognazzini teaches a method as claimed in claim 1, wherein the selected service comprises at least one of an audio and video performance performed by the performer in real time in response to the request, and wherein receiving the selected server comprises receiving the user computer performance data for playing at least one of an audio and video representation of the performance that was performed in real time in response to the request (Tognazzini, col. 5 lines 65-67).

Regarding claim 9, Lewin-Tognazzini teaches a method as claimed in claim 1, wherein accessing a user interface comprises accessing a website in an online communication session over the network, and wherein the selected service comprises an on-line performance performed by the performer in real time during the on-line communication session, in response to request (Tognazzini, col. 6 lines 50-59).

Regarding claim 10, Lewin-Tognazzini teaches a method as claimed in claim 1, further comprising providing the provider computer with location information corresponding to the geographic location of the user computer and receiving by the user computer a communication over the network, the communication comprising an incentive having a value to a user of the user computer to visit a specified business establishment, wherein the incentive value is dependent upon the relative distance

between the geographic location of the user computer and the specified business establishment (Tognazzini, col. 8 lines 29-50).

Regarding claim 11, Lewin-Tognazzini teaches a method as claimed in claim 10, wherein the incentive value is greater for a first geographic location of the user computer than for a second geographic location of the user computer, wherein the first geographic location of the user computer is further from the specified business establishment than the second geographic location of the user computer (Tognazzini, col. 8 lines 37-50).

5. Claims 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tognazzini (US 5,708,478) in view of Lewin et al. (Hereafter, Lewin) (US 2001/0005831 A1)

Regarding claim 13, Tognazzini teaches a method as claimed in claim 12,

Tognazzini does not explicitly teach providing the user computer with data over the network, the data corresponding to a plurality of performers; and receiving an electronic communication from the user computer over the network, the electronic communication specifying at least one performer.

Lewin teaches providing the user computer with data over the network, the data corresponding to a plurality of performers (page 2 paragraph 0021 and page 11 paragraph 0171; and receiving an electronic communication from the user computer

over the network, the electronic communication specifying at least one performer (page 3 paragraph 36).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tognazzini to provide the user computer with data over the network, the data corresponding to a plurality of performers; and to receive an electronic communication from the user computer over the network, the electronic communication specifying at least one performer as in Lewin. One would be motivated to do so to enable a user to select a performer (or provider) that most perfectly matches user's needs (Lewin, page 1 paragraph 8)

Response to Arguments

6. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oanh Duong whose telephone number is (571) 272-3983. The examiner can normally be reached on Monday- Friday, 2:00PM - 10:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

O.D
October 17, 2005


BHARAT BAROT
PRIMARY EXAMINER